

Application No. 10/667,938
Amendment dated November 14, 2005
Reply to Office Action of May 13, 2005

Remarks/Arguments

This response addresses the examiner's office action dated May 13, 2005 with respect to the above-referenced application. Original claims 1 through 4 are pending in the case, but were rejected by the examiner under 35 U.S.C. §102(b) as being anticipated by Kolker. The examiner pointed out the Kolker reference provided for a triangular-shaped front piece tapered crotch region with straps connecting at about 120 degrees as broadly claimed.

The Applicant maintains its original claims 1 through 4 as being patentable over Kolker, as well as any other known art, for the reasons argued below.

Applicant's disclosure, and its subject matter in claim 1 distinguishes Applicant's invention from Kolker for the following reasons. First, Kolker's disclosure and particularly that shown in Kolker's Figure 1 and Figure 2 teaches a triangular-shaped crotch piece having ***parallel front and rear edges*** joined by sides which converge from the front edge to the rear edge to form a panel with ***four corners and four sides***. This teaching of Kolker is evident, not only from the disclosure and the figures in Kolker, but are specifically required and taught in the broadest claim of Kolker, being the language set forth above. As a matter of definition, straps attached at each ***apex*** for supporting the panel, as taught and claimed in the Applicant's invention, by definition cannot have four corners and four sides. The Kolker embodiment which was referenced by the examiner teaches and claims a rhombus shape, not a triangular shape which has apexes, since an apex is defined as one of three corners of a triangle.

The Kolker reference relied upon by the examiner does not teach a triangular-shaped crotch piece which does ***not*** have "parallel front and rear edges joined by sides"

Application No. 10/667,938
Amendment dated November 14, 2005
Reply to Office Action of May 13, 2005

as taught in the Kolker disclosure. Accordingly, the Applicant most respectfully argues that claim 1 presented in the original case defines a completely different invention which does not read on Kolker. Accordingly, the invention presented in claim 1 is distinguishable and patentable over the Kolker reference.

With respect to the second claim in the pending application, said independent claim adequately describes a different invention than the Kolker reference in view of the limitations of pending claim 2. The second claim in the case comprises a first strap and a second strap adopted to extend below the user's crotch and being securely connected at said first strap *at a point on the posterior of the user at or below approximately the circumferential midline of the user's posterior*. In the Kolker embodiment which concerns the examiner, Kolker clearly teaches *the first string extends over the pelvis of the wearer and the second string extends along the cleavage between the buttocks of the wearer*. (Column 4, lines 43 to 46). Since the Applicant's pending claim 2 defines second strap connected to a first strap at a point, the Applicant argues that this is a significant difference as compared to the disclosed and claimed invention of Kolker. Kolker teaches and claims its second string forming a loop through which said first string projects. Presumably this is to allow slidable movement or to otherwise address the objectives or concerns of the invention in Kolker, unlike the present disclosure and the claimed invention.

The thrust of the difference between the prior art which concerns the examiner and the present invention are significant in terms of how the invention functions and the usefulness of the invention. To wit, the present invention connects at a point which is not looped, as taught in the Kolker invention, which provides for a slidable fit which is not preferred under the circumstances in the application of the present invention. Connector 18 attaches at a fixed point using straps or attachment means which are not

Application No. 10/667,938
Amendment dated November 14, 2005
Reply to Office Action of May 13, 2005

"relatively thin" or a "second string of substantially smaller length than the first string" as taught and claimed in Kolker. Kolker missed the opportunity to provide a more useful invention as perhaps by not appreciating the need to advance the art disclosed in the present application, as apparent by studying the Kolker reference.

With respect to independent claim 3, the Applicant respectfully argues that claim 3 provides for **a lower strap extending between the wearer's legs...** The Kolker reference refers to a rear loop 18 as demonstrated in **Figure 1** of the reference. The claims in Kolker also specifically speak to forming a loop through which the first string extends, but does not attach. This substantial change between the present disclosure and the prior art is of paramount importance. Claim 3 presents a lower strap, not a loop as taught and claimed in Kolker.

Conclusions

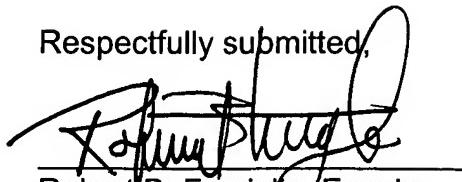
With the above, the Applicant respectfully suggests that it has presented argument which traverses the examiner's objections based on the specific prior art referenced. In view of the examiner's arguments and the clarifications offered, the Applicant requests that the examiner remove such objections presented in the first office action, permitting a notice of allowance to be issued. The Applicant believes that it has addressed all of the rejections, objections and other requirements of the examiner in good faith. In the event that the examiner may identify patentable subject matter but still requires additional prosecution in view of the presentation in this response, the examiner is most cordially invited to call the undersigned counsel at the examiner's convenience to discuss desirable additional amendments or changes to the extent necessary to place the case in condition for allowance. The Applicant thanks the examiner for the time spent in reviewing this application.

Application No. 10/667,938

Amendment dated November 14, 2005
Reply to Office Action of May 13, 2005

Dated: November 14, 2005

Respectfully submitted,



Robert B. Famiglio, Esquire
Attorney for Applicant and Assignee,
Thermal Technologies, Inc.
FAMIGLIO & ASSOCIATES
USPTO ID# 29,305
P.O. Box 1999
Media, PA 19063
610-359-7300